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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/629,186	07/31/2000	Ekkehard Kerner	852/49038	4544

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EXAMINER

NGUYEN, JIMMY T

ART UNIT PAPER NUMBER

3725

DATE MAILED: 02/06/2004

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/629,186

Applicant(s)

KORNER ET AL.

Examiner

Jimmy T Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

Response to Amendment

The amendment filed on November 25, 2003 has been considered and an action on the merits follows.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The scope of the claim is not comprehensible. The preamble calls for a single press. The body of the claim implies that the invention is drawn to multiple presses. It is not clear what structure the claim is drawn to.

Regarding claim 1, lines 9-10, the claim is functionally indefinite. The multiple presses of the press production series are not positively recited, and thus, render the claim indefinite. The claim is particularly confusing in that it appears as though only a single press machine is being claimed. Additionally, it is unclear what the press production series for attaining different stroke speeds refers to, i.e. is it differing stroke speeds as compared to more than one ram? If so, the claim only positively recites one ram, which render the claim indefinite. Further, it is unclear how an offset drive of one press is

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configured to be used in presses of a press production series since the presses of a press production series are not positively recited.

Regarding claim 5, line 11, it is unclear how an offset drive of one press is usable with the presses since the presses are not positively recited. It is suggested that the claim must positively recite the presses and the claim must provide the proper structural interrelationship between one press and other presses in order to support the functional languages as claimed (i.e. an offset drive usable with the presses to realize different stroke speeds). It is suggested that the pre-amble of the claim should recite: "presses of a press production series, wherein each of said presses ...". The body of the claim should clearly define the proper structural interrelationship between one press and other presses in order to support the functional languages as claimed (i.e. an offset drive usable with the presses to realize different stroke speeds).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-4, as best understood, are rejected under 35 U.S.C. 102(a) as being anticipated by Doege et al. (US 6,021,683). The claims are rejected for substantially the same reason as set forth in the last Office action.

Claim 5, as best understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Itakura (US 5,915,296). The claim now calls for only one ram. However,

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the claim is still rejected for substantially the same reason as set forth in the last Office action.

Response to Arguments

Applicant's arguments filed November 25, 2003 have been fully considered but they are not persuasive.

Applicant's arguments are drawn to structure not positively recited in the claims.

Applicant argues that it is "extremely clear that the invention is directed to various presses of a press production series" (page 6, lines 14-15), however, the claims as written do not positively recite any plurality, multiplicity or series of presses. Claim 1, for example, states, "A press used for massive forming comprising ...". The recitation of "a press" implies that the invention is drawn to a single press.

With regard to the 35 U.S.C. 102(a) rejection of claims 1-4, Applicant argues that the patent to Doege et al does not directed to "a press for using a press series in which all presses all share the same basic structure and differ merely in their transmission characteristic" (page 7, lines 9-11). However, as noted above, the claims do not positively recite any plurality, multiplicity or series of presses nor do they recite any structure drawn to any same basic structure or transmission characteristics. Accordingly, the rejection is deemed proper.

With regard to the 35 U.S.C. 102(b) rejection of claim 5, Applicant argues that the patent to Itakura does not disclose "a press production series in which there are different presses of different stroke speeds" (page 8, lines 4-6). However, as noted above, the presses in a press series are not positively recited in the claim. Additionally, the claim does not clearly defined whether a series of presses is a plurality of press machines or

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whether a series of presses is one press machine having plurality of presses (i.e. plurality of press rams in a single frame). Accordingly, the rejection is deemed proper.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy T Nguyen whose telephone number is (703) 305-5304. The examiner can normally be reached on Mon-Thur 8:00am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen Ostrager can be reached on (703) 308-3136. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

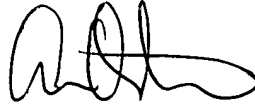
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

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JTNguyen
February 05, 2004

A handwritten signature in black ink, appearing to read 'A. Ostrager', with a stylized, flowing script.

ALLEN OSTRAGER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700